

**IT IS SO ORDERED.**

**/s/ Solomon Oliver, Jr.**

**United States District Judge**  
**10/17/2017**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

NICHOLAS SQUIRE	)	CASE NO. 1:17 CV 968
	)	
Plaintiff,	)	JUDGE SOLOMON OLIVER, JR.
	)	
vs.	)	<b><u>JOINT MOTION FOR APPROVAL</u></b>
	)	<b><u>OF SETTLEMENT AND</u></b>
MILLER RECOVERY SERVICE, INC.,	)	<b><u>DISMISSAL OF CASE</u></b>
et al.	)	
	)	
Defendants.	)	
	)	

For the reasons set forth below, Plaintiff, Nicholas Squire (“Plaintiff”), and Defendants, Miller Recovery Service, Inc., Vance Miller, and Rosa Miller (“Defendants”) (collectively, the “Parties”), move this Court for an Order: (1) approving the Parties’ confidential settlement as fair and reasonable; and (2) dismissing this case, with prejudice, with each party to bear its own costs and attorneys’ fees.

In support of this motion, the Parties state:

1. Plaintiff alleged in his Complaint claims for unpaid overtime and minimum wage compensation under the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq. (“FLSA”) and Ohio Minimum Fair Wage Standards Act (“OMFWSA”), R.C. 4111.03. Defendants denied all of the material allegations of the Complaint. Defendants also filed counterclaims against Plaintiff.

2. The Parties engaged in the exchange of informal discovery and Fed. R. Civ. P. 26(a)(1) initial disclosures. Bona fide disputes exist amongst the Parties, including but not limited to, whether Plaintiff was an employee as defined under FLSA and/or the OFWA or an independent contractor and, if so, the amount of hours allegedly worked by Plaintiff. Plaintiff and Defendants are represented by their respective counsel.

3. In an effort to reach a compromise and to avoid the expense and burden of litigation, the parties, without any admission of liability as to any of the asserted claims, have reached a confidential settlement of all claims asserted in the pending action, as well as any and all other claims, demands and causes of action that relate to or reasonably could have arisen out of the same facts alleged in the action, including attorneys' fees and costs, up to the date hereof. The terms of that settlement are embodied in a written agreement.

4. The Parties have reached a fair and reasonable resolution of their bona fide dispute over Plaintiff's Complaint, which is subject to Court review as involving an FLSA claim. *Lynn's Food Stores, Inc. v. United States*, 679 F.2d. 1350 (11<sup>th</sup> Cir. 1982). All parties wish to keep the terms of the settlement in this case confidential. Compromise and settlement of an FLSA claim is appropriate when the matter involves a bona fide dispute and the settlement is fair and reasonable. *Rotuna v. West Customer Management Group, LLC*, N.D. Ohio No. 4:09-CV-1608 (June 15, 2010), 2010WL2490989 at \*5; *Dillworth v. Case Farms Processing, Inc.*, N.D. Ohio No. 5:08-cv-1694 (March 8, 2010), 2010WL776933 at \*5.

5. Attached to this Motion is a copy of the Settlement Agreement (Exhibit 1) and a Declaration of Plaintiff's Counsel (Exhibit 2) attesting to the fairness and reasonableness of the settlement.

6. Provided the Court provides the approval sought herein, the parties, pursuant to Fed. R. Civ. P. 41, hereby stipulate to the dismissal of this case, with prejudice, each party to bear its own attorneys' fees and costs.

7. The parties request that the Court retain jurisdiction to enforce the terms of their agreement.

WHEREFORE, the parties request that the Court enter an Order: (1) approving the parties' settlement agreement as fair and reasonable; and (2) dismissing this case with prejudice, each party to bear its own attorneys' fees and costs.

Respectfully submitted,

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